

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Application of: J. Toner et al.

Serial No.: 09/425,289

Filed: October 25, 1999



Art Unit:

Examiner:

For: Embolus Therapy Using Insoluble Microparticles or Vesicles  
Containing Contrast Agents

**Petition Under 37 CFR 1.47 (a)**

Honorable Assistant Commissioner of Patents  
Washington, DC 20231

Sir:

The undersigned states and declares as follows:

1. I am a registered patent attorney authorized to practice before the US Patent and Trademark Office (Reg. No. 32,529).

2. I am employed by Nycomed Amersham (the US affiliate of Nycomed Imaging, AS; the co-owner of PCT Application Number PCT/GB/01195, to which the instant application claims priority, and all patents and applications claiming priority thereto) and its affiliate Amersham Pharmacia Biotech as Vice President, Patents, North America. As part of my duties in that position, I am responsible for coordinating US filing of cases owned by Nycomed Imaging AS, including the captioned application.

3. The captioned application was filed on October 25, 1999, and claims priority, *inter alia*, to PCT Application GB98/01195 filed April 24, 1998, and US provisional application 60/057,073, filed August 27, 1997.

4. On November 17, 1999, a Notice of Missing parts was mailed in connection with the captioned application for lack of a signed declaration. A declaration, attached hereto as Exhibit A, was prepared and attempts were made to contact the inventors.

5. At the time the declaration was prepared, all the inventors (other than Mr. Wolf who was an employee of The General Hospital Corporation) had ceased to be employees and/ or contractors of Nycomed Amersham due to the closing of the facility in Wayne, Pennsylvania. The first and third inventors had given their forwarding addresses as being their future employers (Abbott Laboratories in the case of Mr. Toner and Smith Kline Beecham in the case of Mr. Simmons); the other inventors left no forwarding addresses.

6. The second listed inventor, Mr. Wolf ceased to be an affiliated with the Center for Imaging and Pharmaceutical of The General Hospital Corporation, the co-owner of the invention claimed in the captioned application, and was unable to be reached.

7. The first inventor, John Luke Toner, has been contacted and has signed the declaration; we have been unable to contact Mr. Wolf; several telephone calls to the company Mr. Simmons had listed as a forwarding address have revealed he no longer works there (and further information is not available); the last three inventors (Messrs. McIntire and Bacon, and Ms. Illig) have not left any forwarding address or means to contact them (calls to their last known addresses have not been answered and/or returned) and thus, have not been reached.

8. Of the above-referenced inventors, all except Mr. Wolf were employees of Nycomed Amersham at the time of the invention and under an obligation to assign the invention to their employer; Mr. Wolf was working in laboratories of the General Hospital corporation and similarly was under an obligation to assign his invention to the The General Hospital Corporation. The papers filed with WIPO and signed by the inventors in connection with the filing of the above-referenced PCT application recognize the inventors' recognition of this.

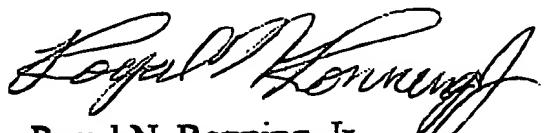
9. The unextendable date for filing of a declaration in connection with the captioned application expires May 17, 2000. It is respectfully requested that the declaration signed by Mr. Toner be accepted and that the declaration

05/16/00 15:52 FAX 732 457 6463  
executed by Mr. Toner be accepted under 37 CFR 1.47 (b) on behalf of the inventors who cannot be located; such is necessary to prevent the application from becoming abandoned, to preserve the rights of the parties, and to prevent irreparable damage. The executed declaration is submitted concurrently herewith and contains the last known address of all the inventors.

10. In the event that I am able to subsequently locate any of the other inventors during the pendency of the application, supplemental declarations executed by that (those) inventor(s) will be filed.

11. A separate authorization to charge the fee required for this petition to the deposit account of the attorneys of record is being submitted concurrently herewith.

Respectfully submitted,



Royal N. Ronning, Jr.  
Reg. No. 32,529  
Vice President,  
Intellectual Property,  
North America

Amersham Pharmacia Biotech  
800 Centennial Ave.  
Piscataway, NJ 08855  
Phone: (732) 457-8423  
Fax: (732) 457-8463